IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.106 OF 2006

IN

APPEAL FROM ORDER NO.872 OF 2005

Shri G.M.Shaikh & Anr. ...Applicants

Vs.

Shri Prakash Jamnadas Majethia &Anr...Respondents.

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Mr.Girish R.Agarwal for the Applicants.

Mr.M.M. Sathye for the Respondents.

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CORAM : DR.D.Y.CHANDRACHUD, J.

September 8, 2006.

P.C. :

A modification has been sought in the following sentence that appears in the order of this Court dated 5th December 2005, namely:

> "....According to the Appellants, prior to the date of the suit unauthorized construction which was made by the

Respondents came to be demolished by the Deolali Cantonment Board."

The applicant seeks the deletion of the words "by the Deolali Cantonment Board".

It is not necessary for this Court to grant the request for modification particularly having regard to the fact that the order of the Court arose out of an interlocutory order passed by the Trial Court. The suit is pending before the Trial Court and the only clarification which ought to be issued at this stage is that the Learned Trial Judge shall dispose of the suit on merits without regarding the observations of this Court in the order dated 5th December 2005 as conclusive on the issues that will fall for determination at the trial. The Civil Application is accordingly disposed of.

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